IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 28054 of 2003(M)

PETITIONER:

T.P.KUNHIKOYA THANGAL,
S/O. POOKOYA THANGAL, PROPRIETOR,
HARITHA TIMBER & SAW MILL, NANGEELIKANDY,
KUTTIADI P.O., KOZHIKODE.

BY ADV. SRI.M.C.JOHN,
SRI.C.PRABIN BENNY.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
   SECRETARY, FOREST & WILD LIFE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM

2. **THE DIVISIONAL FOREST OFFICER,**
   KOZHIKODE DIVISION, CIVIL STATION, KOZHIKODE.

3. **THE FOREST RANGE OFFICER, KUTTIADI.**

4. **THE SECRETARY,KAYAMKKODY GRAMA PANCHAYAT,**
   P.O.THALIYIL, VIA.KUTTIADI - 673 508.

5. **KALAYAMKULATH KUNHAMMED,**
   S/O. KUNHABDULLA HAJI, KAYAKKODY AMSOM,
   CHANGARAMKULAM DESOM, VATAKARA TALUK,
   KOZHIKODE DISTRICT.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI,
ADV.SRI.K.K.M.SHERIF,
SRI.A.A.ZIYAD RAHMAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.28054/2003:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE G.O. (P). NO. 4/2002/FOREST DTD. 11/11/1992.

EXT.P.1: COPY OF THE NOC NO. T. 755/1995 DTD. 02/03/1995 ISSUED BY THE R.2.

EXT.P.2: COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE DISTRICT INDUSTRIES OFFICER, VATAKARA.

EXT.P.4: COPY OF THE OWNERSHIP CERTIFICATE NO. A2-321/2002 DTD. 28/02/2003 ISSUED BY THE R.4.

EXT.P.5: COPY OF THE RECEIPT DTD. 27/02/2003 ISSUED BY THE R.4.

EXT.P.6: COPY OF THE CLEARANCE CERTIFICATE NO. L. DIS. A. 336/2002 DTD. 24/01/2003 ISSUED BY THE FIRE OFFICER.

EXT.P.7: COPY OF THE CERTIFICATE NO. B-1804/02 DTD. 16/12/2002 ISSUED BY THE ASSISTANT DISTRICT INDUSTRIES OFFICER, VATAKARA.

EXT.P.8: COPY OF THE ORDER NO. K. DIS. C2-425/2003 DTD. 30/01/2003.

EXT.P.9: COPY OF THE ORDER NO. C2-425/2003 DTD. 22/0/2003 ISSUED BY THE DISTRICT MEDICAL OFFICER, HEALTH, KOZHIKODE.

EXT.P.10: COPY OF THE COMMUNICATION NO. R1-2600/2003 DTD. 17/05/2003.

EXT.P.11: COPY OF THE RECEIPT DTD. 23/06/2003 FOR RS. 46,800/- LEGIBLY TYPED.

EXT.P.12: COPY OF THE APPLICATION DTD. 24/04/2003 SUBMITTED BY THE PETITIONER TO THE PANCHAYAT.

EXT.P.13: COPY OF THE RESOLUTION NO. 8/2000 OF THE R.4. PANCHAYATH.

EXT.P.14: COPY OF THE ORDER NO. A3-48/2003 DTD. 28/02/2003 ISSUED BY THE R.4.

EXT.P.15: COPY OF THE LETTER NO. A3-48/2003 DTD. 13/05/2003 ISSUED BY THE R.4.

EXT.P.16: COPY OF THE REPLY NO. A3-48/2003 DTD. 06/06/2003 ISSUED BY THE PANCHAYAT.

EXT.P.17: COPY OF THE PROCEEDINGS NO. SUB/MTA/MMS/KKD/2001-02/2308 DTD. 20/02/2001.

W.P.(C). NO.28054/2003:

EXT.P.18: COPY OF THE REPORT OF THE EXPERT COMMITTEE SUBMITTED TO THE SUPEME COURT.

EXT.P.19: COPY OF THE JUDGMENT IN O.P. NO. 4556/1999 OF THIS HONOURABLE COURT.

EXT.P.20: COPY OF THE COMMUNICATION NO. T-2372/2003 DTD. 28/08/2003 ISSUED BY THE R.2.

EXT.P.21: COPY OF THE COMMON JUDGMENT DTD. 25/01/2005 IN O.P. NO. 25531/1998.

EXT.P.22: COPY OF THE JUDGMENT DTD. 16/03/2004 IN A.S. NO. 9/2004 OF THE SUB COURT, VADAKARA.

EXT.P.23: COPY OF THE COMMON JUDGMENT DTD. 25/11/2004 IN O.P. NO. 13/1999.

EXT.P.24: COPY OF THE STATEMENT DTD. 16/11/2005.

EXT.P.25: COPY OF THE COMMUNICATION DTD. 01/02/2006 OF THE CENTRAL EMPOWERED COMMITTEE.

EXT.P.26: COPY OF THE REVENUE RCOVERY NOTICE DTD. 31/12/2005 FOR RS. 37,116/-.

EXT.P.27: COPY OF THE NOTICE DTD. 26/02/2006 ISSUED BY THE RESPONDENTS.

RESPONDENT'S EXHIBITS:

EXT.R5.A: COPY OF THE STATEMENT SUBMITTED BY THE R.2. DTD. NIL.

EXT.R5.B: COPY OF THE COUNTER AFFIDAVIT IN I.A. 877/2003 IN O.S. 116/2003 DT. 28/07/2003.

EXT.R5.C: COPY OF THE JUDGMENT DTD. 17/03/98 IN O.P. NO. 6696/96.

EXT.R5.D: COPY OF THE AFFIDAVIT IN O.S. 116/03 DT. 29/09/03.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.28054 of 2003

Dated this the 16th day of March, 2007.

JUDGMENT

The issue raised in this writ petition pertains to the dispute on the functioning of the wood based industries in the territory of the forest within 5 Kms. A Division Bench of this Court in W.A.No.1593 of 1999 has considered the matter wherein it has been held that there is no such restriction regarding the functioning of such industries within the radius of 5 K.Ms. from the reserve forest. Petitioner may produce a copy of this judgment along with a copy of the judgment in W.A.No.1593 of 1999 before the Panchayat in which case appropriate action in accordance with law will be taken with notice to the second respondent and 5th respondent on Ext.P14 within another four months.

The writ petition is disposed of as above. All pending interlocutory applications would stand closed.

KURIAN JOSEPH, JUDGE

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